



COWAN,
DeBAETS,
ABRAHAMS &
SHEPPARD LLP

41 MADISON AVENUE
NEW YORK, NY 10010
T: 212 974 7474
F: 212 974 8474
www.cdas.com

BENJAMIN S. HALPERIN
212 974 7474
BHALPERIN@CDAS.COM

January 27, 2023

VIA ECF

The Honorable Sarah Netburn
United States District Court
Southern District of New York
Thurgood Marshall Courthouse
New York, NY 10007

Re: *Lynne Freeman v. Tracy Deebs-Elkenaney et. al.*, 1:22 Civ 02435 (LLS)(SN)

Dear Judge Netburn:

On behalf of all Defendants, we write jointly with Plaintiff Lynne Freeman in accordance with Your Honor's Individual Rules requesting clarification regarding expert discovery deadlines.

On December 13, 2022, the Court ordered an extension of fact discovery until March 15, 2023.¹ (ECF No. 93). Although the Court's order did not specifically address expert discovery, the parties believe that the dates set forth in the 9/16 Order necessarily were pushed back given that the extension of fact discovery. The parties accordingly respectfully request Your Honor adjourn the January 30, 2023 deadline for disclosure of expert evidence as required by Rule 26(a)(2)(A), (B) or (C), including the identities and reports of experts, if any, to April 14, 2023.² The parties will further confer and propose a schedule for the remainder of any expert discovery and summary judgment motion practice.

We thank the Court for its time and attention to this matter.

Respectfully submitted,

/s/ Benjamin S. Halperin

**COWAN, DeBAETS, ABRAHAMS &
SHEPPARD LLP**

Nancy E. Wolff
Benjamin S. Halperin
CeCe M. Cole
41 Madison Avenue, 38th Floor
New York, New York 10010

¹ Previously, the deadline to complete fact discovery was December 31, 2022. *See* 9/16 Order (ECF No. 67) (the "9/16 Order").

² The parties continue to disagree as to the proper role (if any) for expert witnesses in this case. This letter merely addresses a procedural deadline and does not constitute an admission by Defendants that it would be proper to allow expert testimony on the issue of substantial similarity.

Tel: (212) 974-7474

Fax: (212) 974-8474

nwolff@cdas.com

bhalperin@cdas.com

ccole@cdas.com

*Attorneys for Defendants Tracy Deeks-
Elkenaney p/k/a Tracy Wolff, Entangled
Publishing, LLC, Holtzbrinck Publishers,
LLC d/b/a Macmillan, and Universal City
Studios LLC*

Cc: All counsel of record (via ECF)